

**NC COMMISSION FOR MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND
SUBSTANCE ABUSE SERVICES**

Clarion Hotel
320 Hillsborough Street
Raleigh, NC

May 17, 2007

Attending

Commission Members: Pender McElroy, Lois T. Batton, Dr. Richard Brunstetter, Laura C. Coker, Clayton Cone, Dorothy Rose Crawford, Pearl Finch, Mazie T. Fleetwood, Ann Forbes, Paul Gulley, Ellen Holliman, George Jones, Martha Macon, Martha Martinat, Floyd McCullouch, Connie Mele, Jerry Ratley, Tom Ryba, Anna Marie Scheyett, William Sims, Marvin Swartz, MD

Commission Members Excused: Fredrica Stell, Carl Shantzis, Ed.D., CSAPC, Judy Lewis

Ex-Officio Committee Members: Peggy Balak, Joe Donovan, Bob Hedrick, Jennifer S. Munford, Larry Pittman

Others: Mike Moseley, Leza Wainwright, Steve Hairston, Denise Baker, Andrea Borden, Marta T. Hester, Michelle J. Edelen, Susan Kelley, Flo Stein, Chris Phillips, Yvonne French, Diane Pomper, Regina S. Dickens, Paula Cox Fishman, Louise G. Fisher, Mark O'Donnell, , Ann Rodriguez, Robin Huffman, Carl Britton-Watkins, Dan Jones, Martha Brock, Joy Futrell, Carol Cannon, Arthur Carder, Ellen Boahn, Suzanne Bellian, Carolyn McCullouch, John L. Crawford

Handouts:

- Response to Comments/Questions on Implementation Update 25: Revised Community Support Rates
- Implementation Update #27: Revised Community Support Authorization Criteria and Utilization Review
- Implementation Update #28: DHHS Rate Review Board Revisits CS Rates
- Community Support Service
- Dan Jones' Presentation

Mailed Out Packet:

- Draft February 17, 2007 Commission Meeting Minutes
- Draft April 11, 2007 Rules Committee Minutes
- Draft April 12, 2007 Advisory Committee Minutes
 - Workforce Development Subcommittee Minutes (Ad-Hoc-Subcommittee on Regulatory Matters and Professional & Direct Support Subcommittee)
- May 17, 2007 Commission Meeting Information
 - Workforce Development Purpose, Vision and Mission Statement
 - 2008 Proposed Meeting Schedule
 - Proposed Adoption of 10A NCAC 26C. 0402 – Standardized Forms and Processes
 - Proposed Adoption of 10A NCAC 27A .0300 – Clean Claims
 - Proposed Adoption of 10A NCAC 27G .0406 - Letter of Support Required for Licensure of Residential Facilities
 - Statute and Rules Reference Material

- February 15, 2007 Commission Meeting Handouts (PDF Attachments)
 - Summary of Results from Strategic Planning Retreat
 - DMH/DD/SAS State Plan 2007-2010 Priority Plan Objectives
 - DMH/DD/SAS External Advisory Team
 - DMH/DD/SA Town Hall Meeting – Kenansville, NC (March 7, 2007)
 - NC Providers Council Comments on Endorsement Rules 10A NCAC 26C .0700
 - Letter to Chairman McElroy from Dr. Dobson regarding Screening, Triage & Referral
 - Presentation on “Training for Employees of Establishments where Products Containing Pseudoephedrine are Sold”
- April 11, 2007 Rules Committee Meeting Handouts (PDF Attachments)
 - Implementation Update #25 – Revised Community Support
 - Communication Bulletin #059
 - NC Council of Community Programs – Council Position on Proposed Rules
 - Rulemaking Timeline Handout
 - 2008 Proposed Meeting Dates
 - Presentation on Rulemaking Process
- April 12, 2007 Advisory Committee Meeting Handouts (PDF Attachments)
 - Implementation Update #25 – Revised Community Support Rates
 - Presentation on “Where to From Here? Developing a Workforce to Meet the Needs”
 - Location of Workforce Development Focus Groups
 - NC Licensing Boards and Licensed Professionals

Called to Order

Chairman Pender McElroy called the meeting to order at 9:40am. Dorothy Crawford, Commission member, delivered the Invocation. Chairman McElroy proceeded to welcome everyone and asked the Commission members, Division staff, and other attendees to introduce themselves. He also read the ethics reminder.

Chairman McElroy shared Fredrica Stell’s letter of resignation with the Commission and introduced a motion of appreciation for her fine and valuable service as a member to the Commission.

Upon motion, second, and unanimous vote, the Commission approved the acknowledgement of appreciation of Fredrica Stell for her fine and valuable service as a member of the Commission.

Approval of Minutes

Upon motion, second, and unanimous vote, the Commission approved the minutes of the February 15, 2007 Commission meeting with the following changes:

Anna Scheyett referenced page 13 of the resolution regarding trained workforce. The comments should reflect that Dr. Swartz and Mrs. Scheyett identified a need to abstain from the vote to avoid the potential appearance of a conflict of interest.

Chairman McElroy briefly discussed House Bill 1654 that has been introduced in the NC House of Representatives involving the transfer of certain rulemaking authority from the Secretary of the Department of Health and Human Services to the Commission. Representative Verla Insko was the bill sponsor. He also indicated that he planned to leave the meeting temporarily to speak to the Mental Health Reform Committee on the bill and that Emily Moore would preside in his absence.

Director's Report

Michael Moseley, Director of DMH/DD/SAS, discussed the following issues during the Director's Report:

- His presentation before the House Committee on Mental Health Reform, on behalf of the Secretary, in opposition to House Bill 1654, *Clarify Mental Health/Developmental Disabilities/Substance Abuse Rule-Making Authority*.
- The Secretary's opposition to House Bill 1654 based upon its the removal, from the Secretary, of all rulemaking authority she has over the system of mental health, developmental disabilities and substance abuse services; this authority would then be vested instead in the Commission for MH/DD/SAS and the Secretary would serve in an advisory capacity.
- Secretary Odom's scheduled departure at the end of the legislative session; her new job is scheduled to start October 1st.
- Dr. Dobson has relinquished directorship of the NC Division of Medical Assistance (DMA) and Mark Benton is now the director there.
- Cindy Kornegay retired from the Division effective May 1, 2007. Efforts are underway to ensure a seamless transition of the rulemaking responsibilities within DMH.
- The Handout *Grid on Community Support Services* was disseminated with the responses from DMA and DMH/DD/SAS to the Commission members' questions and comments. Representatives from DMA will address the Commission at the August meeting regarding the grid, since the majority of the questions address issues that are under their purview.
- The structure of Community Support Services as a blended service was discussed and referenced in the Handout on *Community Support Service*.
- The use of Community Support Services as the clinical home for many people.
- The decision to re-visit the rate for Community Support Service was anticipated at the outset as DMH/DD/SAS knew it was implementing a new service and there was no history of its use. However, the initial rate was established with the input of some providers in order to produce a reasonable rate to be able to move forward with this service. The rate was to be revisited once a history of its implementation had been established.
- The Division's concern with a tiered rate for Community Support Services stems, in part, from a desire to avoid subjecting the State Plan Amendment to review by the Centers for Medicare and Medicaid Services (CMS) as this could result in a CMS refusal to fund the service.
- The audit report which reflected that out of 167 providers, 98% of them used paraprofessionals in the implementation of Community Support Services. This raised red flags because the service was created as a blended service with the engagement of qualified, associate, and paraprofessionals anticipated. The Division's concern is that the service not be compromised regardless of the rate used.
- The DHHS review of Community Support Service because of the high cost associated with the provision of this service. During the first nine (9) months of the fiscal year, over \$700 million was expended on this one service. The problem with this is that if all consumers are residing within a singular service, and their needs could best be met in alternate services, then these alternate services should be developed by providers. This also has a budgetary impact. DMH/DD/SAS want consumers to be able to access services they need at the right dosage amount when they are needed. In order to fulfill this need, the full array of services must be developed. There have been provider's who have not been able to develop services because they have not been getting referrals from

consumers of Community Support even when the consumers clearly need and can benefit from other services.

- The issue of authorization is a key element and the Division needed to start tightening the endorsement process to ensure that the criteria for the determination of willing and qualified providers of Community Support Services is more stringent than it had been previously.
- The House Budget Bill contains a provision that will eliminate all state positions that have been vacant for six months or more. This provision was introduced as a way to generate revenue to increase the salary for state government employees. The impact of this provision is major because the Division has positions that are difficult to recruit but are critically needed. One solution to addressing the staff vacancy issue is to use the lapsed salaries to seek contractual relationships with outside vendors to be able to provide the service level that is needed.

Director's Report: Legislative and Budget Highlights:

Leza Wainwright, Deputy Director, NC DMH/DD/SAS, discussed highlights of the House budget with the Commission:

- The House budget does not have very much new funding for mh/dd/sas. It takes a lot of money for community services in the budget, reduces it, and then re-appropriates those same dollars for other purposes. To a certain extent what it is doing is taking money that may have been available fairly flexible as just mental health money, substance abuse money, or developmental disability money and re-appropriates it to increase specificity.
- There is \$4.8 million in mental health funds that are reduced and then re-appropriated as supported employment.
- A special pilot to allow one Local Management Entity (LME) to try and test reducing hospital admissions.
- There is a \$4.2 million reduction in developmental disabilities services, and those funds have been reallocated: \$3 million are going to DMA to fund 200 additional Community Alternatives Program (CAP) waiver slots, and another \$1.2 million goes into supported employment.
- There is a \$7.3 million reduction in substance abuse dollars and those funds have been reallocated for a state purchased locally managed substance abuse initiative. There is a reduction in the first year only that removes the additional staffing to run the detox unit at the Julian F. Keith Alcohol and Drug Abuse Treatment Center in Black Mountain.
- The budget reflects that by the 2009 fiscal year, Dorothea Dix and Umstead Hospitals will be closed, and the new Central Regional Hospital will be operational and fifty (50) additional forensic beds will be operational at Broughton.
- The House put \$6 million in new money in the first year into LME funding and about \$9 million in the second year and it takes the savings that results from combining Dix and Umstead and directs that money toward LME funding.
- There is \$4 million for offender substance abuse treatment which designates \$2 million for the treatment alternatives for safer communities program and \$2 million for drug court services.
- There is \$100,000 to expand the crisis intervention teams statewide.
- There is \$4 million in new money for crisis services that would be distributed on the poverty per capita (the General Assembly extends the Houses' initiatives that they started last year).
- There have been seven (7) new positions approved for the central office which will be housed within the Accountability Team, Budget and Finance Team, and the Local Management Entity (LME) Team.

- The DMH/DD/SAS requested, and the Governor supported, 100 new positions for the NC Special Care Center; however, the House budget only approved 25. Since the NC Special Care Center has the lowest staff to consumer ratio, the 100 positions would have gotten that facility on par with the Black Mountain Center that serves a similar population.
- There is \$60,000 in non-recurring funding for a consumer advocacy nonprofit and \$100,000 in non-recurring funding to ensure CFAC trainings.
- There is slightly under \$1.1 million non-recurring in the budget to fund one or more pilot programs to pilot issues in rural low wealth counties.
- Within the special provision, the House budget directs the DMH/DD/SAS to permit each LME to decide how they want to earn their substance abuse funds and their crisis funding. Funds can be received on a grant basis or they can continue to receive them on a fee for service basis. There is a requirement that the Division add four (4) more LMEs to the single stream funding pilots.

Ms. Wainwright also encouraged the Commission to continue to track two bills. The first bill is the Behavioral Health Insurance Equity Bill that is currently before the House Insurance Committee. She advised that this bill will probably pass the House this year if the substance abuse component is taken out of it. At this time it addresses both mental health and substance abuse. The second bill is Senate Bill 1538, which the NC DMH/DD/SAS is opposed to, because it would allow every county to dissolve their respective county Social Services Board, Mental Health Board, and Public Health Board, while becoming consolidated human services agencies answerable only to their County Commissioners.

In closing, Mr. Moseley stated he continues to advise the legislative leadership and encourage them to be more assertive in addressing applicable NC issues with the NC Congressional Delegation. A lot of the demands upon the state's budget results from the cost shifting which is occurring now, whereas in the past, the federal government was funding some of these services. There is just not enough revenue in NC to take care of the need.

Advisory Committee Report

Dr. Marvin Swartz, Chairman of the Advisory Committee Report, provided an update on the April 12, 2007 Advisory Committee meeting.

Rules Committee Report

Anna Scheyett, Rules Committee Co-Chair, presented the Rules Committee report for the April 11, 2007 meeting.

Steve Hairston presented the proposed 2008 meeting schedule for the Commission's review and consideration.

Upon motion, second and unanimous vote, the Commission adopted the 2008 meeting schedule dates.

Tom Ryba gave a presentation on the Purpose, Vision, and Mission Statement developed by the Governance Subcommittee for the Workforce Development Workplan Initiative.

Upon motion, second and unanimous vote, the Commission adopted the Purpose, Vision, and Mission Statement of the Workforce Development Workplan Initiative.

10A NCAC 26C .0402 Proposed Adoption of Standardized Forms and Processes

Mark O'Donnell, DMH/DD/SAS, LME Systems Performance, presented the proposed adoption of the Standardized Forms and Processes rule. The proposed rule satisfies requirements established in Session Law 2006-142 directing DHHS and the Secretary to identify directives and communications previously issued by DMH/DD/SAS that require adoption as administrative rule in order to be enforceable and to undertake and to adopt those rules. The proposed rule satisfies that requirement. The proposed rule is necessary to promote standardization of forms and processes related to system management function between LMEs and provider agencies. The Secretary has rulemaking authority and the proposed rule is presented for information and comment. Therefore, no action is required by the Commission.

Ms. Scheyett pointed out that on page 51, item "d", the language was not reflective of the statute. The statute has an exception for court orders and they may want to be consistent with the statute. Mrs. Scheyett also noted that this was pointed out at the Rules meeting in May.

10A NCAC 27A .0300 Proposed Adoption of Clean Claims

Mr. O'Donnell presented on the proposed adoption of Clean Claims. The proposed rule is necessary to promote standardization of forms and processes related to claims submission, payment and denial between provider agencies and LMEs. Session Law 2006-142 directs the Secretary to adopt rules regarding what constitutes a clean claim for purposes of billing.

The Secretary has rulemaking authority and the proposed rule is presented for information and comment. Therefore, no action is required by the Commission.

Chairman McElroy commented that the Commission had received four (4) communications from the NC Council of Community Programs and asked if their suggestions had been considered. Mr. O'Donnell responded that they were under consideration.

10A NCAC 27G .0406 Proposed Adoption of Letters of Support Required for Licensure of Residential Facilities

Mr. O'Donnell presented on the proposed adoption of Letter of Support Required for Licensure of Residential Facilities. The proposed rule is necessary to ensure that residential treatment facility beds are available where needed, unnecessary costs to the State do not result from excess facilities that result in duplication, high vacancy rates, and underutilization, and that individuals who need care in residential treatment facilities may have access to quality care.

Mazie Fleetwood suggested that language be added to line 9 of the rule to read as follows: *An applicant shall submit a request for a letter of support in writing to the LME using a format provided by the Secretary.*

Upon motion, second and unanimous vote, the Commission approved the proposed adoption of 10A NCAC 27G .0406 with the recommended changes to be forwarded for publication.

Martha Martinat, commission member, proposed the following resolution:

RESOLUTION

Because of the importance of insurance to patients with mental health, developmental disabilities and substance abuse problems.

Because the number of patients with these problems is increasing in NC.

Because there are limited advocates for these patients.

We as the NC Commission for Mental Health, Developmental Disabilities and Substance Abuse Services, are in great support for the passage of the Mental Health Equitable Coverage legislation.

Upon motion, second, and unanimous vote, the Commission passed the resolution.

The Commission adjourned for lunch at 12:00 p.m.

Discussion: Interaction between Local Management Entities (LMEs) and Consumer and Family Advisory Committees (CFACs)

Arthur D. Carder, Jr., Chief Executive Officer (CEO), Western Highlands Network, stated that his experience with the CFACs has been very positive, although it has been somewhat difficult to recruit members. Western Highlands Network services eight counties in the western portion of the state and has been getting the CFACs actively involved in their process. He further added that one of the first things he did was create a quality improvement committee within his agency. The goal was to have CFACs involved in an ongoing way by examining fiscal, quality and program issues. While his LME struggled somewhat with the role of the CFACs, they were trying to clearly define the role of CFACs as having certain expertise which many of the Board members do not possess.

Pearl Finch, Commission member, asked if Mr. Carder could identify an area of weakness in his CFAC program. Mr. Carder responded that it would be still not having a strong commitment from his Board to truly listen to the CFAC members. Floyd McCullough, Commission member, asked if the Board allotted time for the CFAC members to make a report at every Board meeting and Mr. Carder's response was positive.

Ms. Finch also asked if he were to evaluate his own program what would he do differently and how he would improve it. Mr. Carder responded that he would like some seats on the LME Board to be filled with at least one or two members of CFACs. There would be a requirement that the LME Board would have to have one or two members who are on CFACs. The other thing would be to have a CFAC member more directly involved in day-to-day activities and planning.

Daniel M. Jones, Area Director, Onslow Carteret Behavioral Healthcare Service, gave a brief presentation (see attached).

Laurie Coker, Commission member, asked about the funds to support the CFACs that were allotted to each LME in the cost model. Ms. Coker wanted to know if this had changed and she was advised that it has not.

Carol Canon, Co-Chair, CFAC, Roanoke Chowan Human Services Center, advised that she was a Special Education teacher before she was a consumer. Therefore, she has seen both sides. Ms. Canon stated that working with an LME as CFAC Co-Chair has been more of a positive experience for her than other people have had. She further added that the money for CFACs comes through the cost model, and that they had \$24,000, and are allowed more if needed. They are also in the process of merging with five (5) other counties and there will be nine (9) upon completion on July 1st. She also advised that her LME director came to most of their meetings and often gave presentations on monitoring and accessibility. They are encouraged to attend the area board meetings and there is time allotted in each Board meeting for CFAC input. Ms. Canon

commented that there was only three (3) of them and although it was a very small CFAC, all of them are very active. Mrs. Canon stated that they live in an area that is very economically deprived; therefore, they do not have any support groups and that it was hard to get them started. Ellen Boahn, Member, CFAC, Cumberland County, stated that she has been sitting on the local CFAC since it began and it has been a very positive experience. Ms. Boahn stated that they have excellent support from their LME. Ms. Boahn stated that she was pleased to see that their CFAC was being listened to by their LME. Ms. Boahn felt that the negative aspect is the difficulty with recruitment; they have had the same six (6) people since they began.

Carl Britton-Watkins, Chair, State CFAC, gave the final presentation. Mr. Britton-Watkins stated that CFACs are really doing well in some areas; they have the very smooth integration between LMEs and CFACs. Mr. Britton-Watkins further stated that statute does not give the CFAC any authority; thus, the State CFAC has no authority over the local CFAC. Mr. Britton-Watkins stated that once you understand the importance of being in this together in a partnership you can really begin to move forward. Chairman McElroy asked how often the State CFAC meets. Mr. Britton-Watkins answered that the meetings take place the second Thursday of every month from 9:30 a.m. – 3:00 p.m. at the Holiday Inn-North.

Another Commission member asked how the State CFAC and the local CFACs interact and wondered if a local CFAC would be able to bring a concern about its relationship with the LME to the attention of the State CFAC. Mr. Britton-Watkins responded that they can bring it to the State CFAC if it is a concern with the LME, and the State CFAC can intervene on an invited level. However, the LME is under no obligation to communicate with the State CFAC or even to communicate with the local CFAC, if they choose not to.

Public Comments

Joe Donovan, Ex-officio Committee member, stated that he was really impressed with the CFAC presentations and that he was on the original committee that put CFAC in the State plan. He further advised that for those individuals who are strong advocates and been around for a while, they are needed to represent the different areas within the state which may not have a voice or an advocate.

Louise Fisher advised the commission that House Bill 1654 passed the House and that Representative Insko has requested that people contact their legislators.

There being no further business, the meeting adjourned at 3:00 p.m.